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SUBJECT: UKRAINE: AVIATION HEAD DISCUSSES PROGRESS ON AIR  
CODE AND OTHER ISSUES

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¶1. (SBU) Summary. Ukrainian State Aviation (SAA) officials discussed progress on outstanding issues including an upcoming International Civil Air Organization (ICAO) safety assessment scheduled for June 17. The SAA hopes that a positive ICAO assessment will fast-track it for an FAA safety reassessment and an eventual return to a Category 1 safety rating (CAT 1), since Ukraine was downgraded to FAA Category 2 status (CAT 2) in 2004. As a crucial requirement for returning to CAT 1, the SAA recently completed its long-awaited Civil Air Code and is hopeful the Parliament will pass the Air Code this summer. However, the International Air Transport Association (IATA) and U.S. air carrier Delta have expressed concerns with at least one section of the Air Code related to payment systems. The FAA's regional representative plans to visit Kyiv for regular meetings in July to ascertain how much progress the SAA has made in preparing for a future reassessment, and to stress that a positive ICAO assessment does not necessarily guarantee a successful FAA reassessment and return to CAT 1. The SAA also noted it approved low-cost airline Wizz Air's application to operate domestic flights, signaling a dramatic change in SAA policy, while providing Ukrainian air passengers with a low-cost option for the first time. End summary.

CAT 1 or CAT 2? That is the Question  
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¶2. (SBU) On May 29, Deputy EconCouns and EconOff met with Ukrainian Deputy Minister of Transport and Head of the State Aviation Administration (SAA) Oleksandr Davydov, who stated the SAA was busy preparing for an ICAO safety assessment to begin on June 17. Davydov touted a successful ICAO assessment as a necessary precursor to requesting an FAA reassessment, and he asked Post to encourage the FAA to return to Ukraine for a reassessment as early as July. EconOff noted to Davydov that the FAA has its procedures for granting reassessment requests, adding that post would pass on the SAA's interest in to the FAA's regional representative in Moscow. (Note: In 2004 the GOU received a CAT 2 safety rating, and as a result cannot expand the number of Ukrainian flights or airlines allowed to fly to the U.S until it returns to CAT 1 status. End note.)

¶3. (SBU) The SAA has been under pressure from Ukrainian

airline AeroSvit to make the necessary safety adjustments and return to CAT 1 status as soon as possible. In August 2007, AeroSvit purchased seven Boeing 737s with an option to purchase seven more, hoping it would be able to add more planes and routes to the U.S., but to date; AeroSvit's plans to expand its U.S. market have been stymied by Ukraine's CAT 2 rating. Econoff reiterated advice given by the FAA's regional representative during a visit to Kyiv in July 2007, that the SAA fully meet the specific areas of improvement identified in 2004 before requesting a reassessment. He also reiterated that since the ICAO and FAA assessment criteria were not identical, the SAA should not assume that a positive ICAO assessment equals a successful FAA reassessment. (Note: the areas of improvement identified in 2004 included: primary aviation legislation (Civil Air Code), specific operating regulations, restructuring of the SAA organization, technical guidance, qualified technical personnel, licensing and certification, continued safety vigilance, and the legal enforcement of safety violations. End note.) The FAA's regional representative plans to meet with SAA officials in July to discuss the SAA's procedures for requesting an eventual FAA reassessment once the SAA has completed the specific areas of improvement previously agreed upon.

#### New Air Code and the Bootlegged Version

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14. (SBU) When the FAA downgraded Ukraine to CAT 2 in 2004, the FAA recommended that the Ukrainian government first develop and pass a Civil Air Code that incorporated international best-practice safety standards. Nearly five years later, the SAA completed an Air Code which received

Cabinet of Ministers (CabMin) approval on June 4. The Air Code now needs to be approved during three readings in the Parliament and signed by the President before it becomes law.

Previous to CabMin approval, the SAA provided copies of its draft Air Code to Post and airline operators in Ukraine.

15. (SBU) Shortly after the SAA posted a copy of its draft Air Code on its website, we heard concerns from International Air Transport Association (IATA) and Delta airline representatives that a bootlegged draft existed containing an article, that if authentic, could give the SAA authority to regulate IATA's billing and settlement plan (BSP) (Note: IATA has faced strong opposition in Ukraine by SAA officials who opposed IATA's BSP, culminating in an August 2007 government order to suspend IATA's operations in Ukraine. Also see reftel. End note.)

16. (SBU) Deputy EconCouns asked SAA officials if there was indeed language in the Air Code that would require SAA certification of settlement systems like IATA's. SAA Head Davydov told us that the language was only for technical systems and outdated software and equipment, but did not apply to settlement systems, but then Deputy Head Dmytro Babeichuk admitted that such language did exist, but contended that those companies that had concerns with this language were trying to protect their own interests, so the USG and Delta need not be worried over such language. Davydov then asked Deputy EconCouns to write a letter expressing any concerns the USG or Delta Airlines might have with the Air Code, emphasizing that the SAA was very interested in these suggestions, especially since the Air Code has not yet been passed and there is still time to make changes. (Comment: Post is following up with Delta and IATA on putting together a draft.)

#### Gee WIZZ! Low-Cost Airlines in Ukraine?

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17. (SBU) Deputy Minister and SAA Head Davydov said he considered the SAA's recent approval of Hungarian-registered, low-cost airline Wizz Air's application to operate in Ukraine as a personal triumph. Davydov added that although Wizz Air was the first to receive SAA approval to operate in Ukraine, several more low-cost airlines had plans to expand to Ukraine. (Note: since this meeting, the SAA announced

approval of German low-cost carrier Germanwing's application to operate in Ukraine with flights from Kyiv to Berlin and Kyiv to Cologne. End note.) Davydov explained that market research indicated a large demand for low-cost airlines in Ukraine, defying the SAA's previous position that low-cost airlines would force Ukrainian-owned airlines into bankruptcy.

18. (SBU) Wizz Air announced domestic flights from Kyiv's Boryspil airport to Lviv, Kharkiv, Simferopol, and Odesa for less than the cost of a train ticket. Since April 25, Wizz air has sold 3,000 tickets for these domestic flights and has plans to begin international flights to London Luton, Dusseldorf, and Milan Bergamo in September. Some Ukrainian observers remain skeptical of Wizz Air's promise to keep prices low in the face of rising fuel prices. Wizz Air officials, however, contested such views based on Wizz Air's business philosophy and ability to cut costs without recouping losses via increased ticket prices.

19. (SBU) Comment. The SAA's current chief seems intent in implementing change as soon as possible, and his ability to grant low-cost airlines access to the Ukrainian market seems to indicate his willingness to reform the aviation sector. The SAA's completion of the Civil Air Code is also laudable, but it has taken extremely long. In addition, given Babeichuk's confirmation of language concerning settlement systems, it is impossible to assume that the Air Code is without problems. While post would like to see Ukraine emerge from Cat 2 status, we have continued to stress that the SAA needs to have all of its ducks in a row before requesting another FAA assessment. End comment.  
TAYLOR